

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

JAMES E. BROWN,

Plaintiff,

v.

WARDEN, Chillicothe Correctional
Institution

Defendants.

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Case No. 1:17-cv-583

Judge Jeffery P. Hopkins

**ORDER ADOPTING REPORTS AND RECOMMENDATIONS (DOCS. 47 & 53),
OVERRULING OBJECTIONS (DOCS. 51 & 56), AND DENYING MOTION TO
EXPAND THE RECORD (DOC. 57)**

This habeas corpus case, brought *pro se* by the Petitioner James E. Brown under 28 U.S.C. § 2254, is before the Court on the Magistrate Judge’s Report and Recommendation (Doc. 47) (the “Report”) and Supplemental Report and Recommendation (Doc. 53) (the “Supplemental Report”). The Petitioner filed objections both to the Report (Doc. 51) and to the Supplemental Report (Doc. 56). The Petitioner also filed a second Motion for Leave to Expand the Record in which he asserts that certain documents related to his state court postconviction petition had been misarranged by the state clerk of courts but that they were properly included with the Petition (Doc. 57).

The Petitioner’s Motion to Expand the Record currently pending before the Court is not well taken for reasons already covered by the Magistrate Judge in the very thorough Report. As noted, the law in the Sixth Circuit is well settled that “the writ of habeas corpus is not the proper means by which prisoners can challenge errors or deficiencies in *state post-conviction* proceedings, . . . which address collateral matters and not the underlying conviction

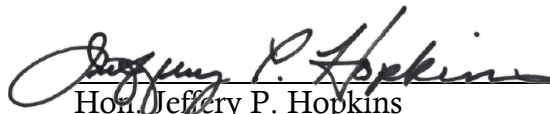
giving rise to the prisoner's incarceration." *Dickey v. Warden, Lebanon Corr. Inst.*, No. 1:08cv819, 2010 WL 92510, at *10 (S.D. Ohio Jan. 6, 2010) (Beckwith, J.; Black, M.J.) (emphasis added) (citing *Kirby v. Dutton*, 794 F.2d 245, 247 (6th Cir. 1986); *Cress v. Palmer*, 484 F.3d 844, 853 (6th Cir. 2007); *Roe v. Baker*, 316 F.3d 557, 571 (6th Cir. 2002); *Alley v. Bell*, 307 F.3d 380, 386-87 (6th Cir. 2002)). The Motion to Expand the Record is accordingly **DENIED**.

The Court has, likewise, carefully reviewed the comprehensive findings and conclusions of the Magistrate Judge and has considered *de novo* all of the filings in this case with particular attention to the issues as to which Petitioner has lodged objections. Having done so, the Court determines that the recommendations in the Magistrate Judge's Report and Supplemental Report should be adopted.

Accordingly, it is hereby **ORDERED** that Petitioner's objections are **OVERRULED** and the Report (Doc. 47) and Supplemental Report (Doc. 53) are **ADOPTED** in their entirety. The Petition, as amended, is **DISMISSED** with prejudice for failure to state a claim for relief. Petitioner is **DENIED** a certificate of appealability, and the Court hereby certifies to the United States Court of Appeals that an appeal would not be taken in good faith and therefore Petitioner should not be permitted to proceed *in forma pauperis*.

IT IS SO ORDERED.

Dated: May 2, 2023


Hon. Jeffery P. Hopkins
United States District Judge